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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,512	10/22/2003	Chang Cheng Yu	4130SF	2221
7590 09/07/2004			EXAMINER	
Chang Cheng YU P.O.Box 63-298 Taichung, 406 TAIWAN			CHOI, STEPHEN	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,512

Applicant(s)

YU, CHANG CHENG

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 5,320,011).

Lee discloses all the recited elements of the invention including:

- a) a base including a side portion (8);
- b) a cutter blade attached to the base (3);
- c) a catch attached to the cutter blade (1), and including an orifice (at 12) formed therein;
- d) a latch device including a pole (an end portion of 7) selectively engageable into the orifice of the catch, to lock the catch and the cutter blade to the base, and selectively disengageable from the orifice of the catch, to allow the catch to be disengaged from the latch device, and to allow the cutter blade to be opened relative to the base.

Regarding claim 9, a pin (14) and a hand grip (11).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al. (US 3,089,373).

Fischer discloses the invention substantially as claimed except for the catch being attached to the cutter blade. Instead, Fischer teaches the catch (60) being attached to the base and the latch being attached to the cutter blade. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the catch on the cutter blade and the latch on the base since such a modification would not have destroyed the characteristics (appearance and function) of the basic reference. A mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

5. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer et al. (US 3,089,373) in view of Kienzler (US 6,746,058).

The modified device of Fischer discloses the invention substantially as claimed except for details of an assembly associated with the latch device. Specifically, the assembly including a rod, a barrel having a bore, an aperture, and a peripheral bulge, a spring, a screw hole on the pole, and an outer thread on the rod. Kienzler discloses a spring loaded assembly including a rod (16) slidably received in a bore (17) of a barrel (9), a spring (18) received in the bore and engaged with the rod, the barrel including an aperture (Figure 2) formed therein and communicating with the bore to slidably receive the rod, the aperture of the barrel having an inner diameter smaller than that of the bore

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and including a peripheral bulge extending radially and outwardly (Figure 2), and the pole including a screw hole (20), and the rod including an outer thread (19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the spring loaded assembly as taught by Kienzler on the modified device of Fischer in order to provide means for securely positioning the catch to prevent inadvertent unlocking. Note that the barrel is capable of engaging the cavity of the base, in turn; the bulge engages with the base and positions the barrel to the base. Regarding claim 8, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the catch having an opening smaller than an inner diameter of the orifice and the rod having an outer diameter smaller than that of the orifice on the modified device of Fischer since the examiner takes Official Notice of the use of such a catch engaging a rod as old and well known in the art for the purpose of interlocking two parts together. Cross shows one example of such a device.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scherig, Pottern, Cross et al., and JP 09268826 are cited to shoe related devices.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday-Friday 9:00-3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc
3 September 2004


STEPHEN CHOI
PRIMARY EXAMINER